

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Case No.: 2:18-cv-01956-JAD-VCF

4 Dennis V. Francisco,

5 Plaintiff

6 v.

7 Joseph Lombardo, et al.,

8 Defendants

Order Dismissing Action

9
10 Plaintiff Dennis V. Francisco brings this civil-rights case under § 1983 for events he
11 alleges occurred during his incarceration at Clark County Detention Center.¹ On October 15,
12 2018, the magistrate judge denied his application to proceed *in forma pauperis* without prejudice
13 because the application was incomplete, and gave him 30 days to file a fully completed
14 application or pay the \$400 filing fee.² The court expressly warned him that his failure to file the
15 completed application or pay the filing fee by that deadline would result in the dismissal of this
16 case.³ The deadline has passed, and Francisco has done neither.

17 District courts have the inherent power to control their dockets and “[i]n the exercise of
18 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁴ A
19 court may dismiss an action with prejudice based on a party’s failure to prosecute an action,
20 failure to obey a court order, or failure to comply with local rules.⁵ In determining whether to

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22 ¹ ECF No. 1-1 (complaint).

23 ² ECF No. 3 (order).

24 ³ *Id.*

25 ⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

26 ⁵ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
27 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
28 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
2 local rules, the court must consider several factors: (1) the public's interest in expeditious
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
5 availability of less drastic alternatives.⁶

6 I find that the first two factors—the public's interest in expeditiously resolving the
7 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.
8 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
10 prosecuting an action.⁷ The fourth factor is greatly outweighed by the factors in favor of
11 dismissal, and a court's warning to a party that his failure to obey the court's order will result in
12 dismissal satisfies the consideration-of-alternatives requirement.⁸ Francisco was warned that his
13 case would be dismissed if he failed to file a fully completed application or pay the \$400 filing
14 fee.⁹ So, Francisco had adequate warning that his failure to pay the fee or submit a completed
15 application would result in this case's dismissal.

16 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without
17 prejudice based on Francisco's failure to file a fully completed application or pay the \$400 filing
18 fee in compliance with this Court's October 15, 2018, order; and
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23 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
24 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

25 ⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
Ferdik, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 ⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 ⁸ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 ⁹ ECF No. 3 (order).

1 The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS
2 CASE.

3 Dated: November 27, 2018

4 
U.S. District Judge Jennifer A. Dorsey